

# HOUSE BILL 644

M3

2lr2629  
CF 2lr3174

---

By: **Delegates Oaks and Niemann**

Introduced and read first time: February 8, 2012

Assigned to: Environmental Matters

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Reducing the Incidence of Lead Poisoning**

3 FOR the purpose of altering the application of certain provisions of law relating to  
4 reducing lead risk in housing to apply to certain property constructed before a  
5 certain date; authorizing the Department of the Environment or a local health  
6 department to order a certain abatement in any residential property under  
7 certain circumstances; establishing a certain rebuttable presumption; providing  
8 that the presumption may be rebutted by clear and convincing evidence;  
9 altering a certain annual fee for certain rental property; authorizing the  
10 Department to administer a certain program consistent with certain federal  
11 regulations; requiring a certain vendor of certain property to deliver to a certain  
12 purchaser a certain lead-contaminated dust test under certain circumstances;  
13 declaring the intent of the General Assembly regarding certain compliance with  
14 certain provisions of law relating to reducing lead risk in housing; and generally  
15 relating to reducing the incidence of lead poisoning.

16 BY repealing and reenacting, without amendments,  
17 Article – Environment  
18 Section 6–801(a) and 6–843(a)(1)  
19 Annotated Code of Maryland  
20 (2007 Replacement Volume and 2011 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – Environment  
23 Section 6–801(b), 6–822, 6–843(a)(2), 6–1003, and 6–1004  
24 Annotated Code of Maryland  
25 (2007 Replacement Volume and 2011 Supplement)

26 BY adding to  
27 Article – Environment

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 6–830.1; and 6–1002.1 to be under the amended subtitle “Subtitle 10.  
Accreditation of Lead Paint Abatement and Renovation Services”  
Annotated Code of Maryland  
(2007 Replacement Volume and 2011 Supplement)

BY adding to  
Article – Real Property  
Section 10–711  
Annotated Code of Maryland  
(2010 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
MARYLAND, That the Laws of Maryland read as follows:

### Article – Environment

6–801.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) “Affected property” means:

(i) A property constructed before [1950] **1978** that contains at least one rental dwelling unit; or

(ii) Any residential rental property for which the owner makes an election under § 6–803(a)(2) of this subtitle.

(2) “Affected property” includes an individual rental dwelling unit within a multifamily rental dwelling.

(3) “Affected property” does not include property exempted under § 6–803(b) of this subtitle.

6–822.

(a) The provisions of this subtitle do not affect:

(1) The duties and obligations of an owner of an affected property to repair or maintain the affected property as required under any applicable State or local law or regulation; or

(2) The authority of a State or local agency to enforce applicable housing or livability codes or to order lead abatements in accordance with any applicable State or local law or regulation.

(b) (1) Notwithstanding § 6–803 of this subtitle, following an environmental investigation in response to a report of a lead poisoned person at risk, **THE DEPARTMENT OR** a local jurisdiction, **INCLUDING THE LOCAL HEALTH DEPARTMENT**, may order an abatement, as defined in § 6–1001 of this title, in any residential property.

(2) No provision of this Act may be construed to limit the treatments which may be encompassed by an order to abate lead hazards.

(c) Whenever there is a conflict between the requirements of an abatement order issued by a State or local agency to an owner of an affected property and the provisions of this subtitle, the more stringent provisions of this subtitle and of the abatement order shall be controlling in determining the owner's obligations regarding the necessary lead hazard reduction treatments that shall be performed in the affected property that is subject to the abatement order.

**6–830.1.**

**(A) THERE IS A REBUTTABLE PRESUMPTION THAT A PERSON AT RISK WITH ELEVATED BLOOD LEAD DID NOT INGEST LEAD IN AN AFFECTED PROPERTY IF THE OWNER OF AN AFFECTED PROPERTY:**

**(1) HAS GIVEN TO THE TENANT THE NOTICES REQUIRED BY §§ 6–820 AND 6–823 OF THIS SUBTITLE; AND**

**(2) WAS IN COMPLIANCE WITH:**

**(I) THE REGISTRATION PROVISIONS OF PART III OF THIS SUBTITLE; AND**

**(II) THE APPLICABLE RISK REDUCTION STANDARD AND RESPONSE STANDARD UNDER § 6–815 OR § 6–819 OF THIS SUBTITLE AND THE RISK REDUCTION SCHEDULE UNDER § 6–817 OF THIS SUBTITLE.**

**(B) THE PRESUMPTION ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION MAY BE REBUTTED BY CLEAR AND CONVINCING EVIDENCE.**

**6–843.**

(a) (1) Except as provided in this subsection and subsection (b) of this section, and in cooperation with the Department of Housing and Community Development, the State Department of Assessments and Taxation, and other appropriate governmental units, the Department shall provide for the collection of an annual fee for every rental dwelling unit in the State.

(2) The annual fee for an affected property is ~~[\$15]~~ **\$30**.

Subtitle 10. Accreditation of Lead Paint Abatement **AND RENOVATION** Services.

**6–1002.1.**

**THE DEPARTMENT MAY ADMINISTER A RENOVATION, REPAIR, AND PAINTING PROGRAM CONSISTENT WITH THE ENVIRONMENTAL PROTECTION AGENCY’S RENOVATION, REPAIR AND PAINTING RULE, 40 C.F.R. 745, SUBPART E.**

6–1003.

(a) ~~[The]~~ **EXCEPT AS OTHERWISE PROVIDED IN § 6–1002.1 OF THIS SUBTITLE,** THE Department shall adopt regulations to carry out the provisions of this subtitle.

(b) Regulations adopted under this subtitle may include:

(1) Initial and continuing standards and procedures for accreditation, including education, training, examination, and job performance standards;

(2) Standards and procedures for renewal of accreditation;

(3) Standards and procedures for modification, suspension, or revocation of accreditation;

(4) Different standards and procedures for different lead paint abatement services;

(5) Recognition of accreditation or similar approvals of persons by other governmental entities; and

(6) Such other provisions as may be necessary to effectuate the purposes of this subtitle.

(c) The Department shall review and revise its certification and other regulations under this subtitle as necessary to ensure continued eligibility for federal funding of lead–hazard activities in the State.

(d) The Department shall set reasonable fees for the accreditation of persons who provide lead paint abatement, **RENOVATION, OR RENOVATION TRAINING** services sufficient to cover the Department’s direct and indirect costs of administering this subtitle.

6–1004.

1 (a) There is a Lead Accreditation Fund.

2 (b) (1) All fees collected under § 6–1003(d) and fines and penalties  
3 imposed under § 6–1005 of this subtitle shall be deposited in the Lead Accreditation  
4 Fund.

5 (2) The Department may apply for and accept any funds or grants  
6 from any federal, State, local, or private source for credit to the Fund that might assist  
7 with development, establishment, administration, and education and enforcement  
8 activities of the lead paint abatement **AND RENOVATION** services accreditation  
9 [program] **PROGRAMS** under this subtitle.

10 (c) The Department shall use the Lead Accreditation Fund for activities by  
11 the Department that are related to processing, monitoring and regulating the  
12 accreditation of lead paint abatement services, and for program development of these  
13 activities.

14 (d) (1) The Lead Accreditation Fund shall be a continuing, nonlapsing  
15 special fund, and is not subject to § 7–302 of the State Finance and Procurement  
16 Article.

17 (2) The State Treasurer shall hold and the State Comptroller shall  
18 account for the Accreditation Fund.

19 (3) The Accreditation Fund shall be invested and reinvested. Any  
20 investment earnings shall be paid into the Accreditation Fund.

## 21 **Article – Real Property**

22 **10–711.**

23 **(A) THIS SECTION APPLIES TO THE SALE OF PROPERTY ON WHICH A**  
24 **DWELLING BUILT BEFORE 1978 IS LOCATED.**

25 **(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AT LEAST 7 DAYS**  
26 **BEFORE SETTLEMENT OF A CONTRACT FOR THE SALE OF PROPERTY, A VENDOR**  
27 **SHALL DELIVER TO EACH PURCHASER THE RESULTS OF A**  
28 **LEAD–CONTAMINATED DUST TEST PERFORMED FOR THE PROPERTY IN**  
29 **ACCORDANCE WITH THE PROCEDURES AND STANDARDS ADOPTED UNDER §**  
30 **6–816 OF THE ENVIRONMENT ARTICLE.**

31 **(C) A PURCHASER MAY WAIVE IN WRITING THE RIGHT TO RECEIVE THE**  
32 **RESULTS OF A LEAD–CONTAMINATED DUST TEST.**

1       SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the  
2 General Assembly that on or before January 1, 2013, an owner of affected property  
3 that was built between 1950 and 1978 shall be in compliance with:

4       (a)     the notice requirements under §§ 6–820 and 6–823 of the Environment  
5 Article;

6       (b)     the registration provisions of Title 6, Subtitle 8, Part III of the  
7 Environment Article;

8       (c)     the risk reduction standard under § 6–815(a) of the Environment Article;  
9 and

10       (d)     any other requirement under Title 6, Subtitle 8 of the Environment  
11 Article, applicable to affected properties.

12       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2012.